

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

JUAN VILLAR-SANCHEZ,  
Petitioner

v.

C.A. No. 04- 11811-NMG

DEPARTMENT OF CORRECTION  
COMMISSIONER KATHLEEN DENNEHY,  
Respondent.

ORDER

Juan Villar-Sanchez, an inmate at the Plymouth County Correctional Facility, commenced this action on August 17, 2004, by filing an application to proceed without prepayment of fees and a petition for a writ of habeas corpus naming the Commissioner of the Department of Correction as the respondent.

(1) The Clerk shall correct the caption so that Joseph McDonough, the Sheriff of Plymouth County, is the sole respondent to this action. Vasquez v. Reno, 233 F.3d 688, 694 (1st Cir. 2000) (a petitioner's legal custodian is the individual having day-to-day control over the facility in which petitioner is being detained), cert. denied, sub nom. Vasquez v. Ashcroft, 122 S. Ct. 43 (2001); see Mass. Gen. Laws ch. 126 § 16 (sheriff shall have custody and control of the jails in his county.. .and shall be responsible for them).

(2) Pursuant to Rule 4 of the Rules Governing Section 2254 Cases, the Clerk of this Court shall serve a copy of the Petition for a Writ of Habeas Corpus by mailing copies of the same, certified mail, to (i) Joseph McDonough, Sheriff, Plymouth County Correctional Facility, 26 Long Pond Road, Plymouth, MA 02360, and (ii) Cathryn Neaves, Chief, Appellate Division, Attorney General for the Commonwealth of Massachusetts, One Ashburton Place, 18<sup>th</sup> Floor, Boston, MA 02108-1598.

(3) It is further ordered that Respondent shall, within 20 days of receipt of this Order, file an answer (or other proper responsive pleading) to the Petition for Writ of Habeas Corpus; AND

(4) This Court further requests Respondent, as part of the return, to file such documents which reflect on whether Petitioner has exhausted his available state remedies with respect to the matters raised by the Petition.

8/20/04  
DATE

s/ Nathaniel M. Gorton  
UNITED STATES DISTRICT JUDGE